S.B. CIVIL WRIT PETITION NO.988/2005

Mani Ram Vs. State of Rajasthan & ors.

Date : 17.2.2005

HON'BLE MR. PRAKASH TATIA, J.

Mr. Vijay Chahar, for the petitioner.

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Heard learned counsel for the petitioner.

This time, the petitioner has come up before this Court in second round of litigation. The petitioner earlier filed S.B. Civil Writ Petition No.5595/2004 as the petitioner was aggrieved against preparation and implementation of new chak plan by which according to petitioner, his land was likely to be adversely affected. The said writ petition was decided by this Court on 13.12.2004 and the petitioner was directed to approach the appellate authority. The petitioner preferred appeal after the decision of his earlier writ petition. The appeal was heard by the appellate authority and the appellate authority after holding that the scheme is technical and it has been prepared by taking into account all the facts and the experts have decided to have water course on the place. The petitioner could not make out any case so as to cast doubt on the technical decision taken by the department. The appellate authority also held that the implementation of the scheme will be in the interest of the majority of the

cultivators and it is also observed that the scheme has already been implemented and is in the final stage.

Learned counsel for the petitioner submits that there is a mandatory provision of issuing notice to all cultivators and since in this matter, notices have not been issued to other cultivators, therefore, the action of the respondent department is illegal. It is also submitted that by this order, the petitioner will suffer great harm to his land.

Learned counsel for the petitioner, in support of his contention, relied on a division bench judgment of this Court delivered in the case of Jarnel Singh and another versus State of Rajasthan and others reported in RLW 1992 (1) page 362.

According to learned counsel for the petitioner, in view of the language used in the Rules, it is clear that the notice is mandatory.

I have considered the above submissions of the learned counsel for the petitioner.

The petitioner preferred writ petition to challenge the action of the respondents in the year 2004 and he was given liberty to prefer appeal. The petitioner is not representative of the public and he has been heard by the appellate authority and, therefore, the petitioner has no right if the notices to other cultivators have not been given. The technical persons have examined the scheme and found it in the interest of majority of cultivators and the

petitioner has not placed on record any material to show that the implementation of plan will be not in the interest of majority of cultivators.

In this view of the matter, this Court is not inclined to interfere in the impugned order which has been passed after giving due opportunity of hearing to the petitioner, while exercising writ jurisdiction.

Accordingly, this writ petition having no merit, is hereby dismissed.

(PRAKASH TATIA), J.

S.Phophaliya